

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA	:	Criminal No. 1:00-CR-00032
	:	
v.	:	(Chief Judge Kane)
	:	
EDDIE SIMMS	:	(Electronically Filed)
	:	

**EMERGENCY MOTION FOR RELIEF**  
**UNDER 18 U.S.C. § 3582 (c) (2)**

AND NOW, comes the defendant, Eddie Simms, by his attorney Lori J. Ulrich of the Federal Public Defender's Office, and files this Emergency Motion for Relief Under 18 U.S.C. § 3582(c) (2) and in support thereof avers as follows:

1. By indictment filed February 2, 2000, the defendant, Eddie Simms was charged with distributing and possessing with the intent to distribute crack cocaine in violation of 21 U.S.C. § 841(a)(1)(4 Counts); and distributing and possessing with the intent to distribute in excess of 50 grams of crack cocaine in violation of 21 U.S.C. § 841(a)(1).

2. By Superseding Information filed May 16, 2000, Mr. Simms was charged with traveling in interstate commerce to facilitate an unlawful activity, specifically,

the unlawful distribution of 50 grams or more of crack cocaine in violation of 18 U.S.C. 1952(a)(3)(2 Counts).

3. On May 17, 2000 Mr. Simms pleaded guilty to the two count Superseding Information.

4. A presentence report was prepared and the guidelines were calculated as follows: the base offense level was calculated pursuant to USSG § 2D1.1 and determined to be 32, for 50G - 150G of crack cocaine; Mr. Simms received a 3 level reduction for acceptance of responsibility; Mr. Simms' total offense level was 29. With an offense level of 29 and a criminal history category of IV, the guideline range was determined to be 121-151, or 120 months as the statutory maximum for the two offenses was 120 months.

5. On October 12, 2000, Mr. Simms was sentenced to 120 months.

6. On November 1, 2007, the guidelines were amended reducing the crack cocaine guidelines by 2 levels.

7. Pursuant to 18 U.S.C. § 3582(c)(2), “in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission . . . upon motion of the defendant . . . the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, . . . .”

8. Under the new guidelines, retroactive as of March 3, 2008, Mr. Simms’ guidelines are as follows: Base offense level would be 30, for 50G - 150G of crack cocaine; Mr. Simms would receive a 3 level reduction for acceptance of responsibility; his new total offense level is 27. With an offense level of 27, and a criminal history category of IV, the guideline range is 100 -125, or 100 - 120 months, (reflecting the statutory maximum). This of course is a 20 month reduction in the low end of the guideline range.

9. Mr. Simms’ projected release date is April 14, 2009.

10. Mr. Simms’ respectfully requests that This Honorable Court resentence Mr. Simms pursuant to the new guidelines and impose a sentence of 100 months.

11. A sentence of 100 months would effectively be a sentence of time served.

12. Mr. Simms believes that he is entitled to relief as he was convicted and sentenced for drug trafficking involving crack cocaine; his guidelines were determined based upon the quantity of drugs involved in the offense; he is not a career offender; and this case is not based solely upon a statutory mandatory minimum.

13. Mr. Simms will waive his right to a hearing and his right to be present at a hearing if there are no contested issues and the Court is inclined to grant the reduction. If there are contested issues and either the Government or the Court is opposing a reduction, Mr. Simms is requesting a hearing and requesting to be present at the hearing to present evidence.

WHEREFORE, Mr. Simms respectfully requests that This Honorable Court

grant his Emergency Motion For Relief Under 18 U.S.C. § 3582(c) and re-sentence him to 100 months or time served.

Respectfully submitted,

Date: February 15, 2008

s/ Lori J. Ulrich

LORI J. ULRICH, ESQUIRE

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*Attorney for Eddie Simms*

**CERTIFICATE OF SERVICE**

I, Lori J. Ulrich of the Federal Public Defender's Office, do hereby certify that I served a copy of the foregoing **EMERGENCY MOTION FOR RELIEF UNDER 18 U.S.C. § 3582 (c) (2)**, via Electronic Case Filing, or by placing a copy in the United States mail, first class in Harrisburg, Pennsylvania, addressed to the following:

WILLIAM A. BEHE, ESQUIRE

[REDACTED]  
[REDACTED]  
[REDACTED]

DREW THOMPSON

[REDACTED]  
[REDACTED]  
[REDACTED]

EDDIE SIMMS

[REDACTED]  
[REDACTED]  
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[REDACTED]

Date: February 15, 2008

/s/ Lori J. Ulrich

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